

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS  
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 11/15/2016	(3) CONTACT/PHONE Airlin M. Singewald, Senior Planner / (805) 781-5198	
(4) SUBJECT Request to adopt a Residential Vacation Rental Ordinance (LRP2015-00017) for the Adelaida/Willow Creek area of the county; exempt from CEQA. District 1.			
(5) RECOMMENDED ACTION It is recommended that the Board adopt the proposed Residential Vacation Rental Ordinance (LRP2015-00017) for the Adelaida/Willow Creek area of the county.			
(6) FUNDING SOURCE(S) Department budget	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT { } Consent    { } Presentation    { x } Hearing (Time Est. <u>120 minutes</u> )    { } Board Business (Time Est. <u>    </u> )			
(11) EXECUTED DOCUMENTS { } Resolutions    { } Contracts    { x } Ordinances    { } N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: { } 4/5 Vote Required    { x } N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? Yes	(16) AGENDA ITEM HISTORY { } N/A Date: <u>10/13/15, 2/16/16, 7/12/16</u>	
(17) ADMINISTRATIVE OFFICE REVIEW Lisa M. Howe			
(18) SUPERVISOR DISTRICT(S) District 1			

# County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / Airlin M. Singewald, Senior Planner / (805) 781-5198

VIA: Bill Robeson, Deputy Director - Permitting

DATE: 11/15/2016

SUBJECT: Request to adopt a Residential Vacation Rental Ordinance (LRP2015-00017) for the Adelaida/Willow Creek area of the county; exempt from CEQA. District 1.

## **RECOMMENDATION**

It is recommended that the Board adopt the proposed Residential Vacation Rental Ordinance (LRP2015-00017) for the Adelaida/Willow Creek area of the county.

## **DISCUSSION**

### **Background**

On July 12, 2016, the Board authorized staff to begin processing a Residential Vacation Rental Ordinance for the Adelaida/Willow Creek area of the county.

The Board first considered this topic during the Department of Planning and Building's priorities report on October 13, 2015. At that meeting your Board heard testimony from residents of the Adelaida/Willow Creek area about the noise, traffic, parking, and fire safety impacts of vacation rentals and temporary events in this rural part of the county. In response to these concerns, the Board directed staff to begin processing an ordinance to establish reasonable land use limitations on vacation rentals in the inland part of the county. Staff released a public review draft of the Inland Vacation Rental Ordinance in January 2016.

The Board discussed this topic again on February 16, 2016, when wedding and events business owners raised concerns about the effects of the proposed ordinance on their industry. In response, the Board directed staff to extend the public comment period on the proposed ordinance and to do more outreach to affected businesses. At that meeting, the Board also indicated that the ordinance should focus on areas where vacation rentals have been problematic, rather than establishing standards for the entire inland part of the county.

This proposed ordinance (Attachment 7) focuses on the Adelaida/Willow Creek area, where staff has received the most neighborhood complaints about vacation rentals and associated temporary events.

### **Proposed Ordinance**

The purpose of the proposed ordinance is to allow for vacation rentals in the Adelaida/Willow Creek area that are subject to reasonable limitations and requirements that protect neighboring residential properties. The proposed ordinance would also prevent vacation rentals from holding temporary events unless they obtain land use permit approval and comply with existing land use ordinance standards governing temporary events.

The Adelaida/Willow Creek area contains many wineries, tasting rooms, B&Bs, event venues, and vacation rentals all

concentrated in a rural area with limited infrastructure, narrow roadways, steep topography, and challenged fire service. These visitor-serving uses have resulted in land use conflicts with neighboring residential and agricultural properties. Staff receives ongoing complaints from permanent residents in the area who are concerned about noise, traffic, parking, and fire safety impacts resulting from these visitor-serving uses. While the Land Use Ordinance already contains a regulatory framework to address impacts from wineries, tasting rooms, temporary events, and B&Bs, there are currently no land use standards for residential vacation rentals. The absence of a vacation rental ordinance has enabled some landowners to use their vacation rental properties as temporary events venues without having to comply with the temporary events ordinance.

Under the existing process, new residential vacation rentals require a zoning clearance, Transient Occupancy Tax (TOT) certificate, and business license. Presently, the only standard applied to the zoning clearance is a restriction on the number of tenancies allowed (1 per 7 days).

As shown in the Table 1, below, the proposed ordinance will establish reasonable limitations on vacation rentals to address issues such as parking, occupancy limits, neighborhood notification, and location of vacation rentals, but will not change the permit level or cost for obtaining a residential vacation rental. Additionally, the proposed ordinance does not change existing ordinance provisions that require minor use permit approval for temporary events. However, by limiting daytime occupancy to a maximum of 18 people, the proposed ordinance would prevent vacation rentals from holding large events without the required permits. Existing vacation rentals with event venues would have 6 months to apply for a minor use permit to continue holding events.

**Table 1: Comparison of Existing Process and Proposed Ordinance**

<b>Requirement</b>	<b>Existing Process</b>	<b>Proposed Ordinance</b>
Permit Requirement	Zoning Clearance, TOT Certificate, Business License	No change
Permit Cost	\$54 + Business License fee	No change
Temporary Events	MUP required; no restriction on private parties	MUP required; limit on daytime visitors
Tenancy Limit	1 per 7 days	No change
Parking Requirements	No restriction	Must be entirely on-site
Occupancy Limit	None	2 people per bedroom + 2 people
Daytime visitor limit	None	Occupancy limit +6, up to 18 max. More than 18 requires MUP for temporary events
Neighborhood Notification	None	Neighbors within 1,500 receive local contact information
Location Standard	None	At least 1,500 feet from existing vacation rental structure
Allowed in secondary dwellings	Owner must occupy either secondary or primary	No change
Allowed in farm support quarters	No	No
Allowed in primary residence or second primary residence	Yes	Either residence but not both

The attached Planning Commission staff report includes a detailed description of the proposed ordinance and summarizes public comments that were received on the draft ordinance with staff responses.

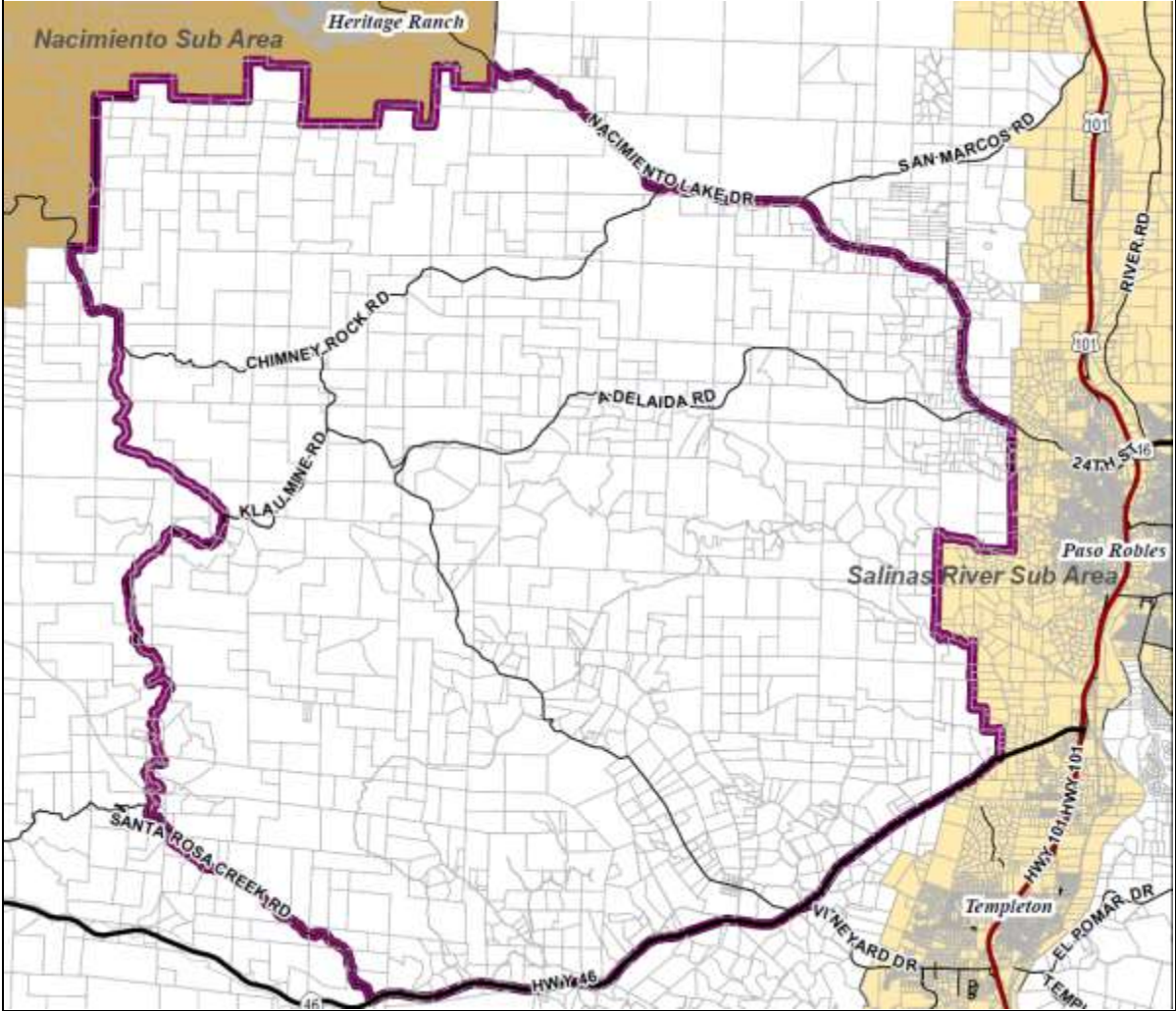
#### **Adelaida/Willow Creek Area Boundaries**

When authorizing the proposed ordinance on July 12, 2016, the Board directed staff to work with concerned neighbors to refine the boundaries of where the ordinance would apply. Staff met with neighborhood representatives to map the

affected area. The goal was to use major roadways and existing planning area boundaries to draw a boundary that encompasses the large concentration of visitor-serving uses in the Adelaida area.

The proposed area covers 71,640 acres and 1,064 parcels located generally west of Paso Robles and north of Highway 46 West (see Figure 1). The boundaries include: the Salinas River sub-area to the west; Highway 46 to the south; Santa Rosa Creek Road, Cypress Mountain Road, and Chimney Rock Road to the east; and the Nacimiento sub-area and Nacimiento Lake Drive to the north. Parcels with direct access on Highway 46 are exempt from the ordinance.

**Figure 1: Adelaida/Willow Creek Area**



**Planning Commission Recommendation**

The Planning Commission reviewed the proposed ordinance on October 13, 2016 and recommended several changes (see Attachment 2). These changes are summarized below:

- Increased number of allowed tenancies from 4 per month to 1 per week. This increased the allowed annual tenancies from 48 (4 per month) to 52 (1 per week). Staff originally recommended allowing 4 tenancies per month to be consistent with the existing standard in the Coastal Zone. However, the Commission determined that the number of allowed tenancies is not as critical of an issue in the inland area and increased the limit to 1 per week. It should be noted that this limitation is included in the definition for a vacation rental and would therefore apply to all vacation rentals in the inland part of the county (i.e. not only in the Adelaida/Willow Creek area).

- Modified the 1,500-foot location requirement to be measured between vacation rental structures rather than parcels. This would be less restrictive and allow a greater concentration of vacation rentals in the Adelaida/Willow Creek area.
- Reduced the amount of time from 18 months to 6 months for existing vacation rentals with temporary events to apply for minor use permit approval to continue holding temporary events.
- Required all advertising for vacation rentals to include the TOT Certificate number. The Commission determined this would help the County and neighbors identify unpermitted vacation rentals.
- Modified subsection b-xiv (Effect on existing residential vacation rentals) to require existing vacation rentals to obtain Zoning Clearance, Business License, and TOT Certificate approval within 120 days of the effective date of the ordinance or prior to the expiration of a valid business license. Originally, this standard only stated that required approvals shall be obtained within 120 days of the effective date. County Counsel recommended adding "...or prior to the expiration of a valid business license." The context for this change was the possibility that subsection b-vi, which only allows one vacation rental per parcel, could eliminate a vacation rental for which an owner has a vested right (a valid business license). This change would allow an existing permitted vacation rental to continue until expiration of an annual business license. An existing unpermitted vacation rental would have 120 days to obtain the required approvals.

### **Vacation Rentals on Williamson Act Contract Land**

Approximately half the land in the Adelaida/Willow Creek area is under a Williamson Act contract and 10 of the 30 existing vacation rentals in the affected area are on contracted land.

Presently, residential vacation rentals are not listed as an allowable use in the County's Rules of Procedure to Implement the Land Conservation Act of 1965. As a result, the County does not allow for residential vacation rentals to be established on contracted land. The Department has referred the proposed ordinance to the Agricultural Preserve Review Committee (APRC) to determine whether vacation rentals should be allowed on contracted land and, if so, what restrictions should be applied to ensure consistency with the Williamson Act.

The APRC discussed residential vacation rentals and related issues on contracted land on March 7<sup>th</sup>, June 20<sup>th</sup>, September 12<sup>th</sup> and October 3, 2016. The Committee supported the allowance of vacation rentals on contracted land, but recommended against allowing vacation rentals to hold events unless they obtain minor use permit approval and comply with the temporary events ordinance. Events on contracted land can be problematic since they can interfere with the required agricultural operations on the property or surrounding properties. Events uses (gathering areas and parking) can displace agricultural production lands and use agricultural structures for non-compliant uses (i.e. public assembly).

The following are the recommendations from the APRC's October 3, 2016 meeting. These recommendations will be carried forward to the Planning Commission and Board of Supervisors:

1. Amend Table 2 "Agricultural and Compatible Uses for Lands Subject to Land Conservation Contracts and Farmland Security Zone Contracts" within the county's Rules of Procedure to Implement the Land Conservation Act of 1965 to include Residential Vacation Rentals as a listed use.
2. Amend Table 2 of the county's Rules of Procedure to add Footnote 12 as followings:

Residential Vacation Rentals are allowed on properties subject to land conservation contracts in existing permitted residences if the criteria listed below can be met. In the Inland area residential Vacation Rentals are subject to Title 22 and are processed as a Zoning Clearance. In the Coastal Zone Residential Vacation Rentals are subject to Title 23 and are processed as Minor Use Permit/Coastal Development Permits (including TOT and business license).

- a) Properties must be in compliance with the provisions of their contracts (when entered into) and have current and ongoing agricultural use as required by the Williamson Act.

- b) Residential Vacation Rentals must have an on-site resident manager (or other designated manager), be incidental to and in support of the primary agricultural enterprise and be consistent with the 3 Principles of Compatibility in the Williamson Act [Government Code Section 51238.1.(a) through (c)].
- c) One Residential Vacation Rental is allowed per land conservation contract. A Residential Vacation Rental is not allowed in addition to a Bed and Breakfast (one or the other but not both). Farm Support Quarters cannot be used for Residential Vacation Rentals.
- d) Guest occupancy (including private parties) is limited to a maximum of 12 overnight guests with the total day time guests and visitors not to exceed 18 people, excluding children under 5 years of age. Properties with a single residence are limited to 120 days of transient occupancy and no more than 4 tenancies per month. Properties with two or more residences (one vacation rental) are allowed no more than 4 tenancies per month.
- e) Temporary events are not allowed unless authorized under the appropriate land use permit as required by the respective Land Use Ordinance (Title 22 or Title 23).

Amending the Rules of Procedure to allow vacation rentals on contracted land would be processed in the same manner as a land use ordinance or general plan amendment, requiring Board of Supervisors authorization and hearings before the Planning Commissions and Board of Supervisors.

### **BUSINESS IMPACT STATEMENT**

The proposed ordinance would not increase the permit level or cost for obtaining a residential vacation rental. Most of the existing vacation rentals in the Adelaida/Willow Creek area would be able to continue operating with little change to their current business practices. Vacation rentals holding temporary events would have 6 months to apply for the necessary permits to continue operating.

The ordinance could potentially result in the closure of some event venues that are currently operating as vacation rentals but are not able to comply with the requirements of the events ordinance. However, any lost business activity would likely be absorbed by one of the many legally permitted businesses in the area.

In conclusion, while the ordinance could have economic impacts on a small number of individual landowners, it is not likely to have a noticeable effect on the local tourism economy. Additionally, by mitigating land use compatibility and health and safety concerns associated with vacation rentals, the proposed ordinance could have a positive impact on residential property values in the area.

### **OTHER AGENCY INVOLVEMENT/IMPACT**

The proposed ordinance was referred to the Templeton Area Advisory Group, Cal Fire, Department of Public Works, Agricultural Commissioner, Agricultural Preserve Review Committee, San Luis Obispo County Farm Bureau, City of Paso Robles, HEAL-SLO Healthy Communities Working Group, Paso Robles Wine Country Alliance, and the San Luis Obispo Chamber of Commerce.

County Counsel reviewed the proposed ordinance.

### **FINANCIAL CONSIDERATIONS**

The cost of processing this County-initiated amendment was funded by the Planning Department's budget.

The proposed ordinance could result in more land use permit applications for temporary events in the Adelaida/Willow Creek area. Application fees would offset the cost of processing these permits.

Additionally, by establishing a new set of land use standards, the ordinance could increase the potential for code

violations and complaints. The Department recently entered into a contract with Host Compliance, a consulting firm that specializes in vacation rental code compliance that will likely identify non-compliant vacation rentals. This service includes a 24 hour hotlines so that the public can submit complaints and potential violations associated with vacation rentals. The increase in potential violations will likely result in a need to increase code enforcement staffing to allow for investigation and processing and to allow for weekend enforcement when potential violations associated when rentals often take place.

## **RESULTS**

If the proposed ordinance is adopted, it would take effect in 30 days after the Board's action, or on December 15, 2016. The ordinance would apply to all existing and new residential vacation rentals in the Adelaida/Willow Creek area. Existing licensed vacation rentals would have to obtain a new Zoning Clearance when they renew their business license and TOT certificate. Existing unlicensed/unpermitted vacation rentals would have 120 days from the effective date of the ordinance to obtain a Zoning Clearance, business license, and TOT certificate. Existing vacation rentals that are holding temporary events (more than 18 visitors at one time) would have 6 months to apply for a minor use permit to continue holding temporary events.

Adoption of the proposed ordinance would be consistent with the county-wide goal of promoting well-governed communities.

## **ATTACHMENTS**

1. Planning Commission Memo
2. Adelaida/Willow Creek Vacation Rental Ordinance - Planning Commission Draft
3. Planning Commission Staff Report - October 13, 2016 Meeting
4. Planning Commission Minutes - October 13, 2016 Meeting
5. Additional Correspondence Received
6. Notice of CEQA Exemption
7. Proposed Ordinance